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12 THE BOARD OF TRUSTEES OF THE
13 LELAND STANFORD JUNIOR UNIVERSITY

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

12 THE BOARD OF TRUSTEES OF THE
13 LELAND STANFORD JUNIOR UNIVERSITY,

Case No. 5:13-cv-04383-BLF-VKD

14 Plaintiff,
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16 vs.
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**PLAINTIFF THE BOARD OF
TRUSTEES OF THE LELAND
STANFORD JUNIOR UNIVERSITY'S
REQUEST FOR MODIFICATION OF
ORDER DISMISSING ACTION AS TO
CHUNGYAN ("JAMES") CHAN [Dkt.
396]**

Judge: Hon. Beth Labson Freeman

CHIANG FANG CHI-YI, an individual;
CHIANG HSIAO-CHANG, an individual;
CHIANG YO-MEI, an individual; CHIANG
TSAI HUI-MEI, an individual; CHIANG YO-
SUNG, an individual; CHIANG YO-LAN, an
individual; CHIANG YO-BO, an individual;
CHIANG YO-CHANG, an individual; CHIANG
YO-CHING, an individual; CHUNGYAN
CHAN, an individual; ACADEMIA
HISTORICA, an entity of The Republic of
China; CHIANG HSIAO-YEN, an individual;
CHIANG HUI-LAN, an individual; CHIANG
HUI-YUN, an individual; CHIANG WAN-AN,
an individual, and CHIU JU-HSUEH, an
Individual.

Defendants.

1 Plaintiff The Board of Trustees of The Leland Stanford Junior University (“Stanford”)
 2 respectfully submits this request for modification of the Court’s July 7, 2023 Order Dismissing
 3 Action as to Chungyan (“James”) Chan [Dkt. 396] pursuant to which the Court held that, in light of
 4 the failure of Chungyan (“James”) Chan (“Mr. Chan”) to respond by July 6, 2023 to the Court’s
 5 June 15, 2023 Order to Show Cause [Dkt. 390], “[t]he action is DISMISSED as to Mr. Chan for
 6 failure to prosecute.” Dkt. 396.

7 As the Court knows, Stanford filed this interpleader action asking the Court to determine the
 8 conflicting claims raised by parties including Mr. Chan to certain diaries and papers of Chiang Kai-
 9 shek and Chiang Ching-kuo (the “Deposit”). In its Complaint, Stanford asked the Court: (1) to
 10 release and discharge Stanford from any and all liability on account of the claims that each
 11 defendant may have in the Deposit; and (2) to restrain each defendant from instituting any action
 12 against Stanford for recovery of the Deposit. On August 22, 2022, the Court granted Stanford such
 13 relief in its Order Granting Motion for an Order Releasing and Discharging Stanford from Liability;
 14 and Restraining Each Defendant from Instituting Action Against Stanford for Recovery of Deposit
 15 [Dkt. 346] (the “August 22 Order”).

16 On June 21, 2023, defendant Academia Historica (“AH”) filed its Motion for Entry of Order
 17 to Transfer Deposits and Final Judgment [Dkt. 392]. AH’s [Proposed] Order [Dkt. 392-1], *inter*
 18 *alia*: (1) incorporates by reference the August 22 Order; and (2) provides that “Stanford is released
 19 and discharged from any and all liability on the account of any claims that any defendants may have
 20 with regard to the transfer of possession of the Deposits to Academia Historica.” *Id.* at 2.

21 Stanford is concerned that dismissal of Mr. Chan as a defendant prior to entry of the Order
 22 on AH’s motion might be interpreted as creating ambiguity as to whether he is bound by that Order,
 23 thereby leaving Stanford open to a possible claim by Mr. Chan based upon its transfer of the
 24 Deposit to Academia Historica pursuant to an Order from this Court. This concern is heightened as
 25 Mr. Chan has threatened to sue Stanford over its handling of the Deposit, including in letters sent
 26 on March 17, 2020, March 31, 2020, and August 22, 2020. *See* Dkts. 295-5, 295-6, 320-3, 320-4.

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Stanford therefore believes that it would be preferable, rather than dismissing the action as to Mr. Chan for failure to prosecute, for the Court to enter Mr. Chan's default pursuant to Fed. R. Civ. P. 55(a) and, if the Court chooses, to enter a default judgment against Mr. Chan pursuant to Fed. R. Civ. P. 55(b).

In the alternative, Stanford notes that July 5, 2023 was the deadline for any party to oppose AH’s motion, *see* Local Rule 7-3(a), and that no party opposed that motion. Accordingly, the Court could dispose of the case against Mr. Chan – and as to all parties – by withdrawing its Order of this morning [Dkt. 396] and granting AH’s motion and entering judgment thereon.

Respectfully submitted,

Dated: July 7, 2023

MARK D. LITVACK
JEFFREY D. WEXLER
PILLSBURY WINTHROP SHAW
PITTMAN LLP

By: /s/ Mark D. Litvack
Mark D. Litvack
Attorneys for Plaintiff The Board of Trustees of
Leland Stanford Junior University

1 Docket No. CV-13-04383-BLF-HRL
2 PROOF OF SERVICE3 I am employed in the State of California, in the office of a member of the bar of this Court, at
4 whose direction the service is made. I am over the age of eighteen years, and not a party to the
5 within action. My email and business address is kelly.saunders@pillsburylaw.com and Pillsbury
6 Winthrop Shaw Pittman LLP, 725 South Figueroa Street, 36th Floor, Los Angeles, CA 90017-5524.
7 On July 7, 2023, I served the document titled **PLAINTIFF THE BOARD OF TRUSTEES OF**
8 **THE LELAND STANFORD JUNIOR UNIVERSITY'S REQUEST FOR MODIFICATION**
9 **OF ORDER DISMISSING ACTION AS TO CHUNGYAN ("JAMES") CHAN [Dkt. 396]** on
10 the following party in this action as follows:11 **See Attached Service List.**12 **(BY MAIL)** I caused each envelope, with postage thereon fully prepaid, to be placed in
13 the United States mail at Los Angeles, CA. I am readily familiar with the practice of
14 Pillsbury Winthrop Shaw Pittman LLP for collection and processing of correspondence
15 for mailing, said practice being that in the ordinary course of business, mail is
16 deposited in the United States Postal Service the same day as it is placed for collection.
17 **(BY FACSIMILE)** The above-referenced document is transmitted by facsimile
18 transmission and the transmission was reported as complete and without error to the
19 numbers listed above.
20 **(BY EMAIL TRANSMISSION)** The above-referenced document is transmitted via
21 electronic transmission to the persons at the electronic-email addresses indicated on the
22 attached Service List.
23 **(BY PERSONAL SERVICE)** I delivered to an authorized courier or driver authorized
24 by _____ to receive documents to be delivered on the same date. A proof of service
25 signed by the authorized courier will be filed forthwith.
26 **(BY OVERNIGHT COURIER)** I am readily familiar with the practice of Pillsbury
27 Winthrop Shaw Pittman LLP for collection and processing of correspondence for
28 overnight delivery and know that the document(s) described herein will be deposited in
a box or other facility regularly maintained by _____ for overnight delivery.I declare under penalty of perjury that the foregoing is true and correct. Executed this 7th day
of July, 2023, at Anaheim, California.

Kelly Saunders

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